

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

## DIVISION OF CREDIT UNIONS

### NEWSLETTER

Volume 6, Number 4

April 2, 2004

#### END OF YEAR FINANCIAL DATA

Overall, Missouri credit unions had a good year in 2003. Loans increased slightly and share increases lessened. If the economic recovery strengthens and continues, the period of excess liquidity may begin to subside. Sooner or later interest rates are going to increase and credit unions should be prepared for this eventuality.

A continuing concern of the Division of Credit Unions is some credit union's inability to contain costs of operations. For many credit unions cost containment is the only way to preserve margins depending on interest rates and asset-liability structure. As rates rise, credit unions that have not contained costs will be under increasing pressure to maintain adequate profitability. Credit unions that are incurring very high expenses will more likely have a difficult time surviving and most certainly will not be able to attract member business.

Year End 2003	Missouri Credit Unions	All Credit Unions
Net Worth	10.72%	10.62%
Return on Assets	0.80%	0.95%
Operating Expenses/Average Assets	3.90%	3.27%
Share Growth	4.85%	6.51%
Loans/Assets	67.12%	63.33%

#### FIELD OF MEMBERSHIP UP DATE

**Springfield Telephone Employees Credit Union** (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the

Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2002 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On April 23, 2003, the Missouri Supreme Court issued an order transferring the case to their jurisdiction. On December 9, 2003 the Court reversed the decision of the lower courts and remanded the case. The opinion can be read at

<http://www.osca.state.mo.us/Courts/PubOpinions.nsf/0f87ea4ac0ad4c0186256405005d3b8e/d1c9a3590b16be4286256df6006dbc43?OpenDocument>. A status hearing has been scheduled for May 24, 2004 in Cole County Circuit Court.

**South Community Credit Union** submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed

appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17, 2002 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401. A status hearing has been scheduled for May 24, 2004 in Cole County Circuit Court.

**Vantage Credit Union** (formerly **Educational Employees Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. On March 18, 2004 a mandamus order was issued and served on the Credit Union Commission. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797.

**City Utilities Credit Union** submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. On March 24, 2003 a status review and or trial setting was scheduled for May 24, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number

03CV323001.

**First Community Credit Union** submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and a local bank filed a petition for administrative review in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323859.

**Alliance Credit Union** submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Allegiant Bank filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and a local bank filed a petition for administrative review in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323857.

**St. Louis Postal Credit Union** submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323855.

**United Community Credit Union**, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323858.

**Aerospace Community Credit Union** submitted an application for those who live or work in the remainder of St. Louis City, St. Louis County and St. Charles County that is not currently in the **Aerospace Community Credit Union's** field of membership and those who live or work in Lincoln County. The application was published in the May 1, 2003 Missouri Register. The director approved the application and his decision was published in the July 1, 2003 Missouri Register. On July 14, 2003 the MBA and the First National Bank of St. Louis filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323852.

**Edison Credit Union** submitted an application for active or retired employees of Tenneco Automotive, Yates Electric Co. Inc., Trailmobile Cash Register Sales, Martec Pharmaceutical, Inc., Martec Scientific, Inc., Carlson Systems, and Reliable Health Care. **Midwest United Credit Union** submitted an application for all eligible businesses, government entities, individuals and the immediate family of all eligible individuals who live or work in Platte County, Missouri. **Goetz Credit Union** submitted an application for those who live or work in Buchanan County, Missouri. The Director approved these applications and his decisions were published in the April 1, 2004 Missouri Register. A fifteen calendar day period must occur before the decisions are final.

## FTC ALERT ABOUT IDENTITY THEFT SCAM

A new Spam Scam Alert from the Federal Trade Commission could help consumers avoid becoming identity theft victims. The Alert, "Someone Is Phishing For

Your Information," warns that consumers may receive e-mails that claim to be from regulations.gov, a government Web site where consumers can comment on federal rule making. The e-mails' subject lines typically read, "Official information," or "Urgent information to all credit card holders!" and claim that recent changes in the law require that Internet users identify themselves to the government to "create a secure and safer Internet community." Copies of the consumer alert are available from the FTC's Web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

## From the Director...

### Update on Field of Membership Appeals

Although reported by individual credit union in this issue of the Newsletter, here is a summary of recent events. Three cases (Telcomm, formerly Springfield Telephone, South Community and Central Communications Credit Unions) have been consolidated and will be heard by Judge Callahan in Cole County Circuit Court. Parties involved have agreed to condense the issues into the following two:

1. Whether my decision was based upon the record before me and/or was arbitrary or capricious.
2. Whether the rule established by the Credit Union Commission (CUCOM) exceed its authority pursuant to the statutory authority as set out in RSMo 370.080.2(2).

The two appeals (Vantage formerly Educational Employees and City Utilities Credit Unions) of my decisions that have not been heard by the CUCOM will be returned from Cole County Circuit Court to CUCOM for hearing.

The next status hearing is scheduled for May 24, 2004 at 1:30 p.m. before Judge Callahan. At that time a briefing schedule and/or trial date will be established for the consolidated cases.

The parties have jointly agreed that Cole County Circuit Court will be petitioned to defer action on the five new cases until the resolution of the cases before the Court

### Update of Standard Bylaws

Missouri credit union standard bylaws were last updated in 1992. During 2003 we consulted the Missouri Credit Union Association, credit unions, the law firm that represents many Missouri credit unions and our examiners to revise and update the bylaws now named 'The Revised Standard Bylaws 2003'. The 2003 version have been distributed to all credit unions. The revision is available as paper copy, on floppy diskettes and CDs. We ask that credit unions adopt 'The Revised Standard Bylaws 2003' during 2004.

### Annual Meetings

I appreciate the many invitations to attend annual meetings, whether to deliver remarks, or just to be present to meet and greet members. Because of scheduling, I cannot attend all the meetings but do appreciate the invitation.

**We have moved**

The Division of Credit Unions' physical address has changed to Harry S. Truman Building, 301 West High Street, Room 720A, Jefferson City, MO 65101. Our mailing address will remain the same at P.O. Box 1607, Jefferson City, MO 65102. Our telephone, fax and e-mail address will not change.

A handwritten signature in blue ink, reading "John P. Smith", is positioned to the left of a vertical line.

**John P. Smith, Director**